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December 6, 2010

Yosemite Creek Superfund Site, San
Francisco, CA: Response to 104(e)
Information Request

VIA FEDEX

James Hanson, Chief
Enforcement & Removal Operations Section
Superfund Division
United States Environmental Protection Agency
Region IX, Southern California Field Office
600 Wilshire Avenue, Suite 1420
Los Angeles, California 90017

This letter responds to the August 24, 2010 correspondence from the United States Environmental Protection Agency ("EPA") to E.I. du Pont de Nemours and Company ("DuPont") requesting that DuPont supplement its response to the 104(e) Information Request with regard to the Yosemite Creek Superfund site (the "Site").

DuPont has conducted further research and investigation into the information requested and hereby submits the following amended Response to 104(e) Information Request. Please note that DuPont has been generally unable to locate company documents that have not already been produced to the Department of Toxic Substances Control ("DTSC") pursuant to its 1992 site investigation (as set forth in DuPont's initial Response to the 104(e) Information Request). Nonetheless, DuPont has again re-reviewed its files and confirmed that it is not able to locate any information to indicate that it ever sent any drums to the Bay Area Drum site.¹

¹ By way of background, in 1992 and in response to an investigation by the California Environmental Protection Agency, Department of Toxic Substances Control ("DTSC"), DuPont reviewed its records and interviewed appropriate individuals and was not able to find any information concerning the Bay Area Drum site. DuPont notified the DTSC of the same in a letter dated September 30, 1992 (of copy of which is attached). In 1995, DuPont entered into a "De Minimis Buy-Out and Indemnity Agreement Between the Bay Area Drum Ad Hoc PRP Group and Certain De Minimis PRPs." As you know

GENERAL STATEMENTS AND OBJECTIONS

In responding to the RFI, DuPont has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. However, the RFI purports to seek a great deal of information that is not relevant to the Site or alleged contamination at the Site. For example, while we understand the basis of the purported connection between DuPont and the former Bay Area Drum State Superfund Site at 1212 Thomas Avenue in San Francisco, California (hereinafter, the "BAD Site"), certain RFI questions seek information regarding facilities other than the BAD Site, including *all* facilities in California and *all* facilities outside California that shipped drums or other containers to *any* location in the entire state of California. These other facilities throughout California and the United States have no nexus to the Site. Because such questions are not relevant to the Site, they are beyond the scope of EPA's authority as set forth in Section 104(e)(2)(A) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (EPA may request information "relevant to . . . [t]he identification, nature, and quantity of materials which have been . . . transported to a . . . facility").

The RFI also defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, dichlorodiphenyltrichloroethane ("DDT"), chlordane, dieldrin, and polychlorinated biphenyls ("PCBs")." However, certain RFI requests also seek information regarding hazardous substances more broadly. These requests go beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and are not relevant to the Site pursuant to Section 104(e)(2)(A) of CERCLA.

As you know and as noted above, the DTSC conducted an extensive investigation of the BAD Site and DuPont's operations in connection with it. DTSC's investigation included an information request to DuPont and the DTSC files include DuPont's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. Thus, the focus of DuPont's identification, review and retrieval of documents has been upon data

from Mr. van Aelstyn's June 30, 2008 letter to Michael Massey of the EPA, the Bay Area Drum *Ad Hoc* PRPs are providing DuPont with a defense to EPA's claims with respect to the Yosemite Creek Site. The passage of 17 years since the DTSC's investigation and 14 years since the De Minimis Buy-Out and Indemnity Agreement ended DuPont's participation in issues related to the Bay Area Drum site restricts the ability of DuPont to provide information in response to the RFI. It is also noteworthy the DuPont is, at most, a very de minimis PRP and EPA policies and guidelines regarding the same should be considered before requesting DuPont undertake onerous discovery burdens. Nevertheless, in a good faith effort to comply, DuPont has re-reviewed its files.

that has not been previously provided to EPA, DTSC or any other governmental agency that is relevant to the Site. DuPont was unable to locate any such responsive information.

DuPont asserts the following general privileges, protections and objections with respect to the RFI and each information request therein.

1. DuPont asserts all privileges and protections it has in regard to the documents and other information sought by EPA, including the attorney-client privilege, the attorney work product doctrine, all privileges and protections related to materials generated in anticipation of litigation, the settlement communication protection, the confidential business information ("CBI") and trade secret protections, and any other privilege or protection available to it under law.
2. DuPont objects to any requirement to produce documents or information already in the possession of a government agency, including but not limited to DTSC, or already in the public domain. As noted above, DTSC conducted an extensive investigation of the BAD Site and DuPont's operations in connection with it. DTSC's investigation included an information request to DuPont and the DTSC files include DuPont's Response to DTSC's information request. EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA.
3. DuPont objects to Instruction 4 to the extent it seeks to require DuPont, if information responsive to the RFI is not in its possession, custody, or control, to identify any and all persons from whom such information "may be obtained." DuPont is aware of no obligation that it has under Section 104(e) of CERCLA to identify all other persons who may have information responsive to EPA information requests and is not otherwise in a position to identify all such persons who may have such information.
4. DuPont objects to Instruction 5 on the ground that EPA has no authority to impose a continuing obligation on DuPont to supplement these responses. DuPont will, of course, comply with any lawful future requests that are within EPA's authority.
5. DuPont objects to Instruction 6 in that it purports to require DuPont to seek and collect information and documents in the possession, custody or control of individuals not within the custody or control of DuPont. EPA lacks the authority to require DuPont to seek information not in its possession, custody or control.

6. DuPont objects to the RFI's definition of "document" or "documents" in Definition 3 to the extent it extends to documents not in DuPont's possession, custody, or control. DuPont disclaims any responsibility to search for, locate, and provide EPA copies of any documents "known [by DuPont] to exist" but not in DuPont's possession, custody, or control.
7. DuPont objects to the RFI's definition of "Facility" or "Facilities" in Definition 4 because the terms are overbroad to the extent that they extend to facilities with no connection to either the Site or the BAD Site. Moreover, the term "Facilities" as defined in the RFI is confusing and unintelligible as the term is defined as having separate meanings in Definition 4 and Request No. 3.
8. DuPont objects to the definition of "Respondent", "you", "the company", "your" and "your company" in Definition 14 because the terms are overbroad and it is not possible for DuPont to answer questions on behalf of all the persons and entities identified therein.

SUPPLEMENTAL RESPONSES TO OCTOBER 15, 2009 EPA INFORMATION REQUESTS

1. *Describe generally the nature of the business conducted by Respondent and identify the products manufactured, formulated, or prepared by Respondent throughout its history of operations.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying each of the products manufactured by DuPont is not feasible due to its long history of operations, the number of DuPont related subsidiaries, divisions, affiliates and branches, and the scope of the products manufactured by those entities. Notwithstanding the foregoing and without waiving its objections, DuPont responds as follows:

When it was initially founded over 200 years ago, DuPont manufactured primarily explosive-related products. Currently, DuPont operates in more than 80 countries and manufactures a wide variety of products, including products related to: printing, agriculture, nutrition, electronics, communications, safety and protection, home and construction, transportation, and apparel. For a general overview of DuPont's business operations, please see www.dupont.com.

2. *Provide the name (or other identifier) and address of any facilities where Respondent carried out operations between 1940 and 1988 (the "Relevant Time Period") and that:*

- a. *ever shipped drums or other containers to the BAD Site for recycling, cleaning, reuse, disposal, or sale.*
- b. *are/were located in California (excluding locations where ONLY clerical/office work was performed);*
- c. *are/were located outside of California and shipped any drums or other containers to California for recycling, cleaning, reuse, disposal, or sale (for drums and containers that were shipped to California for sale, include in your response only transactions where the drums and containers themselves were an object of the sale, not transactions where the sole object of the sale was useful product contained in a drum or other container).*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, in addition to facilities with a connection to the BAD Site, Request No. 2 purports to also seek information regarding *any* facility located in California (excluding locations where ONLY clerical/office work was performed) and *any* facility located outside of California that shipped drums or other containers to *any* location in California, even to locations other than the BAD Site. These other facilities have no nexus with the BAD Site, and thus this request seeks information that is not relevant to the Site.

Notwithstanding the foregoing, and without waiving its objections, DuPont responds as follows:

- a. DuPont has not located any documents responsive to this request. Moreover, any DuPont documents related to the Yosemite Creek Site have previously been identified and produced in the course of the DTSC investigation and ultimate settlement regarding Bay Area Drum in 2001 pursuant to the "De Minimis Buy-Out and Indemnity Agreement Between the Bay Area Drum Ad Hoc PRP Group and Certain De Minimis PRPs." Those documents were previously provided to the Bay Area Drum Ad Hoc PRP Group, which is providing DuPont with a defense to EPA's claims with respect to the Yosemite Creek Site. In a good-faith

effort to comply, DuPont has re-reviewed its files and confirmed it is unable to locate any information to indicate that it ever shipped drums or other containers to the BAD Site.

- b. Based upon its investigation to date, DuPont has identified two facilities located in Northern California that DuPont may have owned and/or operated during the relevant time period which are currently owned by, or are subsidiaries of, DuPont. The locations of these facilities are:
 - a. DuPont Oakley (formerly DuPont Antioch Plant): 6000 Bridgehead Road, Oakland California, 94509.
 - b. DuPont Automotive Products plant: 160 South Linden Street, South San Francisco, California, 94080.
- c. To the best of DuPont's knowledge, no out of state facility owned or operated by DuPont or any of its subsidiaries shipped any drums or other containers to Northern California for recycling, cleaning, reuse, disposal, or sale.

3. *Provide a brief description of the nature of Respondent's operations at each Facility identified in your response to Question 2 (the "Facilities") including:*

- a. *the date such operations commenced and concluded; and*
- b. *the types of work performed at each location over time, including but not limited to the industrial, chemical, or institutional processes undertaken at each location.*

RESPONSE:

In addition to the General objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In particular, but without limiting the generality of the foregoing objection, DuPont objects to the request in (b.) that it describe "types of work performed at each location over time . . ." Without an identification by EPA of the types of work it is referring to, it would be virtually impossible, given the broad nature of possible work at various facilities, to describe each and every type of work that was performed at any facility. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without waiving its objections, DuPont responds as follows:

a. The Oakley facility (formerly known as the Antioch Plant) was operated by DuPont from 1955 to 1999 as a chemical manufacturing facility. During its operations, which began in 1956, the facility was primarily used for the manufacture of tetraethyl lead and Freon, beginning with the production of fuel-additive anti-knock compounds (AKCs) and chlorofluorocarbons (CFCs). Titanium dioxide (TiO₂) was added in 1963. Additionally, the land was used for agricultural purposes: the harvesting of almonds and grapes. Starting in 1981, DuPont began shutting down the plant operations, beginning with the elimination of the AKC manufacturing in 1981, the CFC manufacturing in 1996 and the TiO₂ in July 1998. The general shutdown of all TiO₂ and CFC blending operations occurred on March 31, 1999. Since 1999, the plant operations have shut down and structures have been removed. The Oakley facility is currently undergoing investigation and remediation activities under the Resource Conservation and Recovery Act ("RCRA"). DuPont hopes to eventually redevelop the site as a business park, including commercial office and retail uses. The environmental investigation and remediation were regulated by the Central Valley Regional Water Quality Control Board until March 2002. Subsequently, the Department of Toxic Substances Control ("DTSC") has been the lead regulating agency. As part of its investigation and remediation, in 2002 drafted a Current Conditions Report ("CCR") for the Oakley facility (attached to these Responses). The CCR was revised and finalized in 2003. The CCR's primary purpose was to summarize the work performed by DuPont with respect to characterizing the site constituents of potential concern distribution in surrounding media. The report also documents available site knowledge by medium and identifies any remaining data gaps. The CCR also sets forth the remedial measures undertaken by DuPont to address any potential soil and/or groundwater contamination. Furthermore, the report sets forth a detailed owner/operator history, including all chemicals manufactured, produced, used, at the Oakley Facility as well as associated usage, practices, and waste regarding these chemicals. DuPont also provided Phase I and II Environmental Site Assessments and other supporting information to the DTSC which can be obtained by request to the DTSC.

b. After conducting a good faith and reasonable inquiry, DuPont has located the following information relating to its South San Francisco, California facility: The South San Francisco facility was an active paint manufacturing operation from 1934 through 1982. Peak production at the plant was in 1955. In 1982, operations were reduced, and since then the facility has been primarily used to warehouse paints and conduct quality control tests of bulk paints that are shipped to the NUMMI plant in Fremont. In 1984, DuPont sold 6.5 acres of the original 13 acres of the plant, including the warehouse area to the south of the site and the office area to the northeast. DuPont has not owned or operated the facility since 1984. Among other things, the first investigation of the site was conducted in 1954 and the second in 1977. Moreover, a limited environmental assessment was conducted in 1991, and a Phase II environmental assessment was conducted in 1999. *See also* the Phase II Environmental Assessment

Report attached to these responses.

4. *For each Facility, describe the types of records regarding the storage, production, purchasing, and use of Substances of Interest ("SOI") during the Relevant Time Period that still exist and the periods of time covered by each type of record.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome to the extent it seeks to require DuPont to describe "types of records." Where documents have been provided in response to this RFI, each and every document regarding SOIs is not also "identified" by describing its contents. DuPont further objects to Request No. 4 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, *see* response to Request Nos. 2 and 3; *see also* CCR and Phase II Environmental Assessment Report attached to these responses.

5. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store one of the COCs (including any substances or wastes containing the COCs) at any of the Facilities? State the factual basis for your response.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between COC's at DuPont's Facilities and the BAD Site, Request No. 5 purports to seek information relating to DuPont's Facilities that is not relevant to contamination at the Site. Notwithstanding the foregoing, and without waiving its objections, *see* Response to Request Nos. 2, 3, and 4. *See also* CCR and Phase II Environmental Assessment Report attached to these responses.

6. *If the answer to Question 5 is yes, identify each COC produced, purchased, used, or stored at each Facility.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between COC's at DuPont's Facilities and the BAD Site, Request No. 5 purports to seek information relating to DuPont's Facilities that is not relevant to contamination at the Site. Notwithstanding the foregoing, and without waiving its objections, see Response to Request Nos. 2 and 5. *See also* CCR and Phase II Environmental Assessment Report attached to these responses.

7. *If the answer to Question 5 is yes, identify the time period during which each COC was produced, purchased, used, or stored at each Facility.*

RESPONSE:

See responses to Request Nos. 2 and 5.

8. *If the answer to Question 5 is yes, identify the average annual quantity of each COC produced, purchased, used, or stored at each Facility.*

RESPONSE:

See responses to Request Nos. 2 and 5.

9. *If the answer to Question 5 is yes, identify the volume of each COC disposed by the Facility annually and describe the method and location of disposal.*

RESPONSE:

See responses to Request Nos. 2 and 5.

10. *Did Respondent ever (not just during the Relevant Time Period) produce, purchase, use, or store hydraulic oil or transformer oil at any of the Facilities? State the factual basis for your response to this question.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. By removing any temporal limit and any nexus between hydraulic fuel or transformer oil at DuPont's Facilities and the BAD Site, Request No. 10 purports to seek information relating to DuPont's Facilities that is not relevant to contamination at the Site. *See responses to Request Nos. 2 and 5.*

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11. *If the answer to Question 10 is yes, identify each specific type of hydraulic oil and transformer oil produced, purchased, used, or stored at each Facility.*

RESPONSE:

See responses to Request Nos. 2, 5 and 10.

12. *If the answer to Question 10 is yes, identify the time period during which each type of hydraulic oil and transformer oil was produced, purchased, used, or stored.*

RESPONSE:

See responses to Request Nos. 2, 5 and 10.

13. *If the answer to Question 10 is yes, identify the average annual quantity of each type hydraulic oil and transformer oil purchased, produced, used, or stored at each Facility.*

RESPONSE:

See responses to Request Nos. 2, 5 and 10.

14. *If the answer to Question 10 is yes, identify the volume of each hydraulic oil and transformer oil disposed by the Facility annually and describe the method and location of disposal.*

RESPONSE:

See responses to Request Nos. 2, 5 and 10.

15. *Provide the following information for each SOI (SOIs include any substance or waste containing the SOI) identified in your responses to Questions 5 and 10:*

- a. *Describe briefly the purpose for which each SOI was used at the Facility. If there was more than one use, describe each use and the time period for each use;*
- b. *Identify the supplier(s) of the SOIs and the time period during which they supplied the SOIs, and provide copies of all contracts, service orders, shipping manifests, invoices, receipts, canceled checks and other documents pertaining to the procurement of the SOI;*
- c. *State whether the SOIs were delivered to the Facility in bulk or in closed containers, and describe any changes in the method of delivery over time;*

- d. *Describe how, where, when, and by whom the containers used to store the SOIs (or in which the SOIs were purchased) were cleaned, removed from the Facility, and/or disposed of, and describe any changes in cleaning, removal, or disposal practices over time.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 15 purports to seek information relating to DuPont's Facilities that is not relevant to contamination at the Site. See responses to Request Nos. 2, 5 and 10.

16. *For each SOI delivered to the Facilities in closed containers, describe the containers, including but not limited to:*
 - a. *the type of container (e.g. 55 gal. drum, tote, etc.);*
 - b. *whether the containers were new or used; and*
 - c. *if the containers were used, a description of the prior use of the container.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 16 purports to seek information relating to DuPont's Facilities that is not relevant to contamination at the Site. See responses to Request Nos. 2, 5, 10 and 15.

17. *For each container that Respondent used to store a SOI or in which SOIs were purchased ("Substance-Holding Containers" or "SHCs") that was later removed from the Facility, provide a complete description of where the SHCs were sent and the circumstances under which the SHCs were removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. DuPont further objects to Request No. 17 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which

EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site.

Additionally, as stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 17 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. Notwithstanding the foregoing, and without any waiver of its objections, DuPont has been unable to locate any information regarding SHCs it allegedly sent to the BAD site.

18. *For each SHC that was removed from the Facility, describe Respondent's contracts, agreements, or other arrangements under which SHCs were removed from the Facility, and identity all parties to each contract, agreement, or other arrangement described. Distinguish between the Relevant Time Period and the time period since 1988.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 18 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, DuPont has been unable to locate any information regarding SHCs it allegedly sent to the BAD Site.

19. *For each SHC, provide a complete explanation regarding the ownership of the SHC prior to delivery, while onsite, and after it was removed from the Facility. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 19 purports to seek information regarding SHCs that were sent to sites other than the BAD Site. *See* Response to Request No. 17.

20. *Identify all individuals who currently have, and those who have had, responsibility for procurement of Materials at the Facilities. Also provide each individual's job title, duties, dates performing those duties, current position or the date of the individual's resignation, and the nature of the information possessed by each individual concerning Respondent's procurement of Materials.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Request No. 20 purports to seek information relating to DuPont's Facilities that is not relevant to contamination at the Site. DuPont further objects to Request No. 20 as it purports to seek information regarding procurement of "Materials" at facilities other than the BAD Site and thus goes beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment.

21. *Describe how each type of waste containing any SOIs was collected and stored at the Facilities prior to disposal/recycling/sale/transport, including:*

- a. *the type of container in which each type of waste was placed/stored;*
- b. *how frequently each type of waste was removed from the Facility; Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 21 purports to seek information regarding collection and storage of "any SOIs" at facilities other than the BAD Site. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. See response to Request No. 2.

22. *Describe the containers used to remove each type of waste containing any SOIs from the Facilities, including but not limited to:*

- a. *the type of container (e.g. 55 gal. drum, dumpster, etc.);*
- b. *the colors of the containers;*

- c. *any distinctive stripes or other markings on those containers;*
- d. *any labels or writing on those containers (including the content of those labels);*
- e. *whether those containers were new or used; and*
- f. *if those containers were used, a description of the prior use of the container;*

Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. DuPont further objects to Request No. 22 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site. Additionally, DuPont objects to Request No. 22 as it purports to seek information regarding containers used to remove each type of waste containing any SOIs from the Facilities and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site.

Notwithstanding the foregoing, and without any waiver of its objections, DuPont has been unable to locate any information regarding containers it allegedly sent to the BAD Site.

23. *For each type of waste generated at the Facilities that contained any of the SOIs, describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling and identify all parties to each contract, agreement, or other arrangement described. State the ownership of waste containers as specified under each contract, agreement, or other arrangement described and the ultimate destination or use for such containers. Distinguish between the Relevant Time Period and the time period since 1988, and describe any changes in Respondent's practices over time.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this

request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." Moreover, the RFI defined "COCs" as "any of the contaminants of concern at the Site and includes: lead, zinc, mercury, DDT, chlordane, dieldrin, and PCBs. DuPont further objects to Request No. 23 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site. Additionally, DuPont objects to Request No. 23 as it purports to seek information regarding waste generated at any Facilities that contained any SOIs and taken to *any* other place during *any* time. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. See response to Request No. 22.

24. *Identify all individuals who currently have, and those who have had, responsibility for Respondent's environmental matters (including responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes and SHCs). Provide the job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all individuals who currently have, and those who have had, responsibility for DuPont's environmental matters at all of DuPont's Facilities, including those that have no nexus to the BAD Site, is not feasible. DuPont has a DuPont's 200+ year history of a wide variety of operations in locations all around the world.

25. *Did Respondent ever purchase drums or other containers from a drum recycler or drum reconditioner? If yes, identify the entities or individuals from which Respondent acquired such drums or containers.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. Identifying all drum recyclers or drum reconditioners from which DuPont has ever acquired such drums or containers is not feasible. DuPont has a 200+ year history of a wide variety of operations in locations all around the world.

26. *Prior to 1988, did Respondent always keep its waste streams that contained SOIs separate from its other waste streams?*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. DuPont further objects to Request No. 26 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a release or threatened release to the environment at the Site and that is not relevant to the Site. DuPont has a 200+ year history of a wide variety of operations in locations all around the world.

27. *Identify all removal and remedial actions conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or comparable state law; all corrective actions conducted pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; and all cleanups conducted pursuant to the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. where (a) one of the COCs was addressed by the cleanup and (b) at which Respondent paid a portion of cleanup costs or performed work. Provide copies of all correspondence between Respondent and any federal or state government agency that (a) identifies a COC and (b) is related to one of the above-mentioned sites.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. As stated in the RFI, "EPA is seeking to identify parties that have or may have contributed to contamination at the Site." However, Request No. 27 purports to seek information regarding a broad range of removal and remedial actions, corrective actions and cleanups. Moreover, identifying all such removal and remedial actions is not feasible due to DuPont's extensive history and operations throughout the United States. To the extent that EPA seeks information about facilities that have no nexus with the BAD Site, this request is not relevant to the Site. DuPont further objects to Request No. 27 to the extent that EPA is already in possession of the requested documents, and to the extent that EPA is not in possession of these files, they are readily available to EPA.

28. *Provide all records of communication between Respondent and Bay Area Drum Company, Inc.; Meyers Drum Company; A.W. Sorich Bucket and Drum Company; Waymire Drum Company, Inc.; Waymire Drum and Barrel Company, Inc.; Bedini Barrels Inc.; Bedini Steel Drum Corp.; Bedini Drum; or any other person or entity that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. DuPont further objects that the request assumes facts. DTSC conducted an extensive investigation of the BAD Site and DuPont's operations in connection with it. DTSC's files include extensive records concerning the Bay Area Drum Company, Inc. and other persons and entities that owned or operated the facility located at 1212 Thomas Avenue, in the City and County of San Francisco, California. DuPont understands that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. DuPont has not been able to locate any Company records regarding the BAD site other than documents located in DTSC's files, and documents previously identified and produced in the course of the DTSC investigation and ultimate settlement regarding Bay Area Drum in 2001 pursuant to the "De Minimis Buy-Out and Indemnity Agreement Between the Bay Area Drum Ad Hoc PRP Group and Certain De Minimis PRPs." Those documents were previously provided to the Bay Area Drum Ad Hoc PRP Group, which is providing DuPont with a defense to EPA's claims with respect to the Yosemite Creek Site.

29. *Identify the time periods regarding which Respondent does not have any records regarding the SOIs that were produced, purchased, used, or stored at the Facilities.*

RESPONSE:

In addition to the General Objections set forth above, DuPont objects to this request as overbroad in scope, unauthorized by law to the extent it is overbroad, and unduly burdensome. In responding to the RFI, DuPont has undertaken a diligent and good faith search for, and review of, documents and information in its possession, custody or control and that are relevant to this matter. Moreover, DuPont understands that EPA is already in possession of DTSC's files regarding the BAD Site. DuPont is under no further obligation to identify time periods to which these documents do not pertain.

30. *Provide copies of all documents containing information responsive to the previous twenty-nine questions and identify the questions to which each document is responsive.*

RESPONSE:

DuPont incorporates its objections to Request Nos. 1 through 29. DuPont further objects to Request No. 30 as it purports to seek information relating to hazardous substances beyond the specific chemicals for which EPA purports to have evidence of a

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release or threatened release to the environment at the Site and that is not relevant to the Site. DuPont further objects to Request No. 30 as it purports to seek copies of documents containing information responsive to the previous twenty-nine questions. DTSC conducted an extensive investigation of the BAD Site and DuPont's operations in connection with it. DTSC's investigation included an information request to DuPont and the DTSC files include DuPont's Response to DTSC's information request, among other documents. We understand that EPA is already in possession of DTSC's files regarding the BAD Site, and to the extent that EPA is not in possession of these files, they are readily available to EPA. DuPont has not been able to locate any Company records regarding the BAD site other than documents located in DTSC's files, and documents previously identified and produced in the course of the DTSC investigation and ultimate settlement regarding Bay Area Drum in 2001 pursuant to the "De Minimis Buy-Out and Indemnity Agreement Between the Bay Area Drum Ad Hoc PRP Group and Certain De Minimis PRPs." Those documents were previously provided to the Bay Area Drum Ad Hoc PRP Group, which is providing DuPont with a defense to EPA's claims with respect to the Yosemite Creek Site.

We hope this resolves the issues raised in your August 24, 2010 letter. We are happy to continue to assist the EPA as appropriate, but as noted throughout, DuPont has not been able to locate any information related to the BAD site. Any questions EPA may have regarding the responses to the RFI may be directed to the undersigned.

Very truly yours,



Andrew T. Mortl